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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the matter of)
)
1994 Annual Access Tariff Filings) CC Docket No. 94-65
)
)

OPPOSITION OF SOUTHWESTERN BELL TELEPHONE COMPANY

Southwestern Bell Telephone Company (SWBT) files its Opposition to the Application for Review (AFR) filed by AT&T, seeking an adjustment in Local Exchange Carriers' (LECs') price caps to reflect an exogenous cost reduction because of the amortization of equal access expense. Because the Commission has already ruled twice that an exogenous cost reduction is not appropriate, and because AT&T's requested relief is supported neither by Commission Rules nor the facts, the AFR should be denied.

I. SWBT HAS NOT RECOVERED ALL EQUAL ACCESS COSTS.

In support of its requested relief, AT&T claims that "all of the BOCs have made filings with the Decree Court affirming that they have fully recovered their equal access and network reconfiguration expenses."¹ This is not true in SWBT's case. SWBT is currently making equal access conversion (by means of alternate technology) to 73 Oklahoma central offices. SWBT plans eventually to make full switch conversions of these central offices. In

¹ AT&T AFR at 9.

addition, SWBT is currently upgrading 11 other Oklahoma central offices to equal access by full switch replacement.

SWBT and the other Bell Operating Companies (BOCs) were required to report to the Decree Court, in January of 1994, whether any claims would be made against AT&T for equal access costs. SWBT reported that it "makes no claim against AT&T." SWBT did not report that it has fully recovered its equal access costs. Thus, the factual basis of AT&T's argument is incorrect.²

II. EQUAL ACCESS AMORTIZATION DOES NOT RECEIVE THE SAME EXOGENOUS TREATMENT AS RESERVE DEPRECIATION DEFICIENCIES AND INSIDE WIRE.

AT&T argues that exogenous treatment of equal access cost amortization is fully consistent with the treatment of other expense amortizations under the LEC price cap plan, such as LEC amortizations of reserve depreciation deficiencies (RDAs) and inside wire.³ This is incorrect. Section 61.45(d) of the Commission's Rules lists the completion of other amortizations (RDAs and inside wire) as qualifying for exogenous treatment, but this section specifically omits equal access amortization. Indeed, AT&T's Opposition to SWBT's 1994 Annual Access Tariff Filing specifically notes that, under Rule 61.45(d), equal access

² SWBT has previously pointed this out at pages 4-5 of SWBT's Reply to AT&T's Opposition to SWBT's 1994 Annual Access Tariff Filing.

³ AT&T AFR at 5.

amortization does not appear in the list of items automatically accorded exogenous treatment.⁴

III. EXCLUSION FROM A COMMISSION PRODUCTIVITY STUDY IS NOT SYNONYMOUS WITH EXOGENOUS TREATMENT.

AT&T argues that the Commission, in developing its computation of the LECs' productivity factor, removed equal access costs from the LECs' historical revenues to assure the validity of the productivity calculation. Thus:

" . . . allowing the LECs to continue to include fully amortized equal access costs in the PCIs would distort the Commission's prescribed price cap formula for determining the maximum level of those carriers' rates."⁵

This argument, like the others advanced by AT&T, is based on mistaken facts. The Commission required that expiration of RDAs be treated as exogenous but did not remove the full amount of the RDAs from its productivity study.⁶ Thus, simple exclusion from a Commission productivity study is not synonymous with exogenous treatment. Indeed, the LEC Price Cap Order⁷ specifically states: "We will require that costs of converting to equal access be treated as endogenous." That Order has become final, as has the LEC Price Cap Order on Reconsideration, which reaches the same

⁴ AT&T Opposition at 2.

⁵ AT&T AFR at 6.

⁶ In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd. 6786, released October 4, 1990, Appendix C, para. 20 ("LEC Price Cap Order").

⁷ Id at para. 180.

conclusion.⁸ Thus, AT&T's AFR is nothing more than an improper collateral attack on these two Commission decisions and should be denied for that reason alone.

The Commission was not able to determine in the LEC Price Cap Order whether the inclusion of equal access expense and the related demand stimulation in the productivity study increased or decreased the productivity estimate.⁹ The objective of the Commission's examination of the issue, in the context of its productivity study, was to measure cost trends on a comparable basis. This examination had nothing to do with the determination whether equal access costs were exogenous. In fact, as mentioned, the Commission determined that they were not.¹⁰

IV. CONCLUSION

In two separate decisions, the Commission has held that BOC equal access costs shall not be given exogenous treatment. AT&T raised the issue one more time in its Opposition to the BOCs' 1994 Annual Access filing, and the Bureau one more time ruled against AT&T. Now AT&T, as persistent as a dripping faucet, has filed an AFR and asked the Commission to change its mind. This is

⁸ See ftnt. 4.

⁹ LEC Price Cap Order, Appendix C, para. 18.

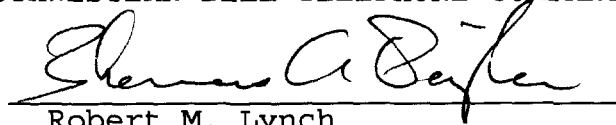
¹⁰ Id. at para. 180.

an improper collateral attack on final Commission orders and is also insupportable factually. AT&T's AFR should be denied.

Respectfully submitted,

SOUTHWESTERN BELL TELEPHONE COMPANY

By

A handwritten signature in cursive script, appearing to read "Thomas A. Pajda", written over a horizontal line.

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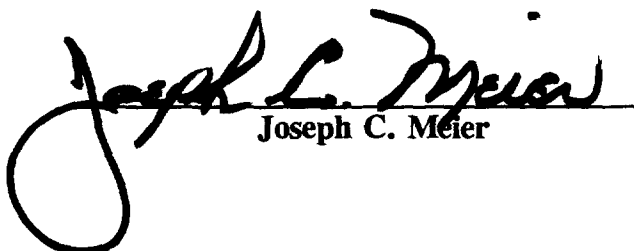
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August 9, 1994

CERTIFICATE OF SERVICE

I, Joseph Meier, hereby certify that the foregoing
"Opposition of Southwestern Bell Telephone Company", In CC Docket
No. 94-65, has been served this 9th day of August, 1994, to the Parties
of Record.


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